

**N.D.A.G. Letter to Eiken (Sep. 30, 1985)**

September 30, 1985

Mr. Douglas K. Eiken, Director  
North Dakota Parks and Recreation Department  
1424 West Century Avenue  
Suite 202  
Bismarck, North Dakota 58501

Dear Mr. Eiken:

I apologize for the delay in responding to your letter dated August 1, 1985, in which you requested an Attorney General's opinion on the following three questions: first, whether the Parks and Recreation Department may accept a donation of land from the Nature Conservancy; second, whether the Parks and Recreation Department may begin to develop access facilities at the site; third, whether the development of a primitive state park is contrary to the will of the people as expressed in a 1980 referred measure in which the voters rejected state purchase of Cross Ranch property for the establishment of the "Veterans Memorial State Park."

Your first question is whether the Parks and Recreation Department may accept a donation of land from the Nature Conservancy. N.D.C.C. § 55-08-03 sets forth the duties, powers, and limitations of the director of the North Dakota Parks and Recreation Department. This section provides, in relevant part, as follows:

55-08-03. DUTIES--POWERS--LIMITATIONS--PENALTY. The director of state parks and recreation shall be the administrative and executive head of the department. Subject to the provisions hereof and other applicable laws, he shall have the following powers and duties:

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3. The director may accept in behalf of the state all gifts or grants or lands or personal property tendered to the state for any purpose pertaining to the activities of the North Dakota parks and recreation department.

\* \* \*

7. The director may:

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- e. Accept gifts or grants of money or property from the United States or any other source.
- f. Use and apply any money or property so received in accordance with the terms of the gift or grant so far as is not inconsistent with the provisions of this chapter or other lands.

[Emphasis supplied.]

This section makes it clear that the director of the North Dakota Parks and Recreation Department has the power to accept the donated Cross Ranch property from the Nature Conservancy.

Your second question is whether the North Dakota Parks and Recreation Department may begin to develop access facilities at the site which are needed to provide access to the donated Cross Ranch property. N.D.C.C. §55-08-03(1), in relevant part, provides as follows:

1. The director and his authorized agents and employees shall have charge and control full powers of management over all state parks, state campgrounds, state recreation areas and reserves of the state, including, but not limited to, site selection and planning, . . . acquisition, construction, reconstruction, betterment, improvement, operation, and maintenance of facilities, . . .

This section authorizes the director of the North Dakota Parks and Recreation Department, as well as authorized agents and employees, to acquire the necessary land to provide access to the donated Cross Ranch property. This statute does not specifically address "donated" land as being under the control and management of the "director"; rather, it speaks to land which may be a "reserve."

N.D.C.C. § 1-02-02 provides that words not specifically defined within the North Dakota Century Code are to be understood in their ordinary sense. A "reserve" is defined as "land set apart for a specific purpose." Webster's New World Dictionary, 1209 (1978). The donated Cross Ranch property qualifies as a "reserve" since its potential use relates to the development of a primitive state park. Therefore, the North Dakota Parks and Recreation Department has the authority to begin development of access facilities to the donated Cross Ranch property.

Your final question is whether the development of a primitive state park is contrary to the will of the people as expressed in a 1980 referred measure in which the voters rejected state purchase of Cross Ranch property for the establishment of the "Veterans Memorial State Park." N.D. Const. Art. III, § 8 provides as follows:

Section 8. . . .An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately.

The voters, in 1980, rejected the appropriation of \$2,640,000 for the purchase of Cross Ranch property to be known as the "Veterans Memorial State Park." It is no longer necessary that the acquisition of this property be made through state purchase. Therefore, its acquisition for potential use as a primitive state park does not appear to be contrary to the will of the people. This is so since the land is to be acquired through donation rather than substantial state expenditure.

Sincerely,

Nicholas J. Spaeth

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